

REFERENCE TITLE: breast-feeding; juries; workplace privacy.

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2121

Introduced by
Representatives Lopez L, Garcia M: Gallardo, Meza, Prezelski, Tom

AN ACT

AMENDING SECTIONS 13-1402, 13-3821 AND 21-202, ARIZONA REVISED STATUTES;
AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 13;
RELATING TO BREAST-FEEDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1402, Arizona Revised Statutes, is amended to
3 read:

4 13-1402. Indecent exposure; exception; classifications

5 A. A person commits indecent exposure if he or she exposes his or her
6 genitals or anus or she exposes the areola or nipple of her breast or breasts
7 and another person is present, and the defendant is reckless about whether
8 ~~such~~ THE other person, as a reasonable person, would be offended or alarmed
9 by the act.

10 B. INDECENT EXPOSURE DOES NOT INCLUDE AN ACT OF BREAST-FEEDING AN
11 INFANT.

12 ~~B.~~ C. Indecent exposure TO A PERSON WHO IS FIFTEEN OR MORE YEARS OF
13 AGE is a class 1 misdemeanor. Indecent exposure to a person WHO IS under ~~the~~
14 ~~age of~~ fifteen years OF AGE is a class 6 felony.

15 Sec. 2. Section 13-3821, Arizona Revised Statutes, is amended to read:

16 13-3821. Persons required to register; procedure;
17 identification card; definitions

18 A. A person who has been convicted of a violation or attempted
19 violation of any of the following offenses or who has been convicted of an
20 offense committed in another jurisdiction that if committed in this state
21 would be a violation or attempted violation of any of the following offenses
22 or an offense that was in effect before September 1, 1978 and that, if
23 committed on or after September 1, 1978, has the same elements of an offense
24 listed in this section or who is required to register by the convicting
25 jurisdiction, within ten days after the conviction or within ten days after
26 entering and remaining in any county of this state, shall register with the
27 sheriff of that county:

28 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
29 under eighteen years of age and the unlawful imprisonment was not committed
30 by the child's parent.

31 2. Kidnapping pursuant to section 13-1304 if the victim is under
32 eighteen years of age and the kidnapping was not committed by the child's
33 parent.

34 3. Sexual abuse pursuant to section 13-1404 if the victim is under
35 eighteen years of age.

36 4. Sexual conduct with a minor pursuant to section 13-1405.

37 5. Sexual assault pursuant to section 13-1406.

38 6. Sexual assault of a spouse if the offense was committed before ~~the~~
39 ~~effective date of this amendment to this section~~ AUGUST 12, 2005.

40 7. Molestation of a child pursuant to section 13-1410.

41 8. Continuous sexual abuse of a child pursuant to section 13-1417.

42 9. Taking a child for the purpose of prostitution pursuant to section
43 13-3206.

44 10. Child prostitution pursuant to section 13-3212.

1 11. Commercial sexual exploitation of a minor pursuant to section
2 13-3552.

3 12. Sexual exploitation of a minor pursuant to section 13-3553.

4 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

5 14. Sex trafficking of a minor pursuant to section 13-1307.

6 15. A second or subsequent violation of indecent exposure to a person
7 under ~~the age of~~ fifteen years ~~OF AGE~~ pursuant to section 13-1402,
8 ~~subsection B.~~

9 16. A second or subsequent violation of public sexual indecency to a
10 minor under ~~the age of~~ fifteen years ~~OF AGE~~ pursuant to section 13-1403,
11 subsection B.

12 17. A third or subsequent violation of indecent exposure pursuant to
13 section 13-1402.

14 18. A third or subsequent violation of public sexual indecency pursuant
15 to section 13-1403.

16 19. A violation of section 13-3822 or 13-3824.

17 B. Before the person is released from confinement the state department
18 of corrections in conjunction with the department of public safety and each
19 county sheriff shall complete the registration of any person who was
20 convicted of a violation of any offense listed under subsection A of this
21 section. Within three days after the person's release from confinement, the
22 state department of corrections shall forward the registered person's records
23 to the department of public safety and to the sheriff of the county in which
24 the registered person intends to reside. Registration pursuant to this
25 subsection shall be consistent with subsection E of this section.

26 C. Notwithstanding subsection A of this section, the judge who
27 sentences a defendant for any violation of chapter 14 or 35.1 of this title
28 or for an offense for which there was a finding of sexual motivation pursuant
29 to section 13-118 may require the person who committed the offense to
30 register pursuant to this section.

31 D. The court may require a person who has been adjudicated delinquent
32 for an act that would constitute an offense specified in subsection A or C of
33 this section to register pursuant to this section. Any duty to register
34 under this subsection shall terminate when the person reaches twenty-five
35 years of age.

36 E. A person who has been convicted of or adjudicated delinquent and
37 who is required to register in the convicting state for an act that would
38 constitute an offense specified in subsection A or C of this section and who
39 is not a resident of this state shall be required to register pursuant to
40 this section if the person is either:

41 1. Employed full-time or part-time in this state, with or without
42 compensation, for more than fourteen consecutive days or for an aggregate
43 period of more than thirty days in a calendar year.

44 2. Enrolled as a full-time or part-time student in any school in this
45 state for more than fourteen consecutive days or for an aggregate period of

1 more than thirty days in a calendar year. For the purposes of this
2 paragraph, "school" means an educational institution of any description,
3 public or private, wherever located in this state.

4 F. Any duty to register under subsection D or E of this section for a
5 juvenile adjudication terminates when the person reaches twenty-five years of
6 age.

7 G. The court may order the termination of any duty to register under
8 this section on successful completion of probation if the person was under
9 eighteen years of age when the offense for which the person was convicted was
10 committed.

11 H. At the time of registering, the person shall sign a statement in
12 writing giving such information as required by the director of the department
13 of public safety, including all names by which the person is known. The
14 sheriff shall fingerprint and photograph the person and within three days
15 thereafter shall send copies of the statement, fingerprints and photographs
16 to the criminal identification section within the department of public safety
17 and the chief of police, if any, of the place where the person resides. The
18 information that is required by this subsection shall include the physical
19 location of the person's residence and the person's address. If the person
20 has a place of residence that is different from the person's address, the
21 person shall provide the person's address, the physical location of the
22 person's residence and the name of the owner of the residence if the
23 residence is privately owned and not offered for rent or lease. If the
24 person receives mail at a post office box, the person shall provide the
25 location and number of the post office box. If the person does not have an
26 address or a permanent place of residence, the person shall provide a
27 description and physical location of any temporary residence.

28 I. On the person's initial registration and every year after the
29 person's initial registration, the person shall obtain a new nonoperating
30 identification license or a driver license from the motor vehicle division in
31 the department of transportation and shall carry a valid nonoperating
32 identification license or a driver license. Notwithstanding sections 28-3165
33 and 28-3171, the license ~~shall be~~ IS valid for one year from the date of
34 issuance, and the person shall submit to the department of transportation
35 proof of the person's address and place of residence. The motor vehicle
36 division shall annually update the person's photograph and shall make a copy
37 of the photograph available to the criminal identification section of the
38 department of public safety or to any law enforcement agency.

39 J. Except as provided in subsection E or K of this section, the clerk
40 of the superior court in the county in which a person has been convicted of a
41 violation of any offense listed under subsection A of this section or has
42 been ordered to register pursuant to subsection C or D of this section shall
43 notify the sheriff in that county of the conviction within ten days after
44 entry of the judgment.

1 K. Within ten days after entry of judgment, a court not of record
2 shall notify the arresting law enforcement agency of an offender's conviction
3 of a violation of section 13-1402. Within ten days after receiving this
4 information, the law enforcement agency shall determine if the offender is
5 required to register pursuant to this section. If the law enforcement agency
6 determines that the offender is required to register, the law enforcement
7 agency shall provide the information required by section 13-3825 to the
8 department of public safety and shall make community notification as required
9 by law.

10 L. A person who is required to register pursuant to this section
11 because of a conviction for the unlawful imprisonment of a minor or the
12 kidnapping of a minor is required to register, absent additional or
13 subsequent convictions, for a period of ten years from the date that the
14 person is released from prison, jail, probation, community supervision or
15 parole and the person has fulfilled all restitution obligations.
16 Notwithstanding this subsection, a person who has a prior conviction for an
17 offense for which registration is required pursuant to this section is
18 required to register for life.

19 M. A person who is required to register pursuant to this section and
20 who is a student at a public or private institution of postsecondary
21 education or who is employed, with or without compensation, at a public or
22 private institution of postsecondary education or who carries on a vocation
23 at a public or private institution of postsecondary education shall notify
24 the county sheriff having jurisdiction of the institution of postsecondary
25 education. The person required to register pursuant to this section shall
26 also notify the sheriff of each change in enrollment or employment status at
27 the institution.

28 N. For the purposes of this section:

29 1. "Address" means the location at which the person receives mail.

30 2. "Residence" means the person's dwelling place, whether permanent or
31 temporary.

32 Sec. 3. Section 21-202, Arizona Revised Statutes, is amended to read:

33 21-202. Persons entitled to be excused from jury service

34 A. It is the policy of this state that all qualified citizens have an
35 obligation to serve on juries when summoned by the courts of this state,
36 unless excused.

37 B. On timely application to the court, the following persons shall be
38 excused temporarily from service as a juror if the judge or jury commissioner
39 finds that any of the following ~~apply~~ **APPLIES**:

40 1. The prospective juror has a mental or physical condition that
41 causes the juror to be incapable of performing jury service. The juror or
42 the juror's personal representative shall provide to the court or jury
43 commissioner a medical statement from a physician who is licensed pursuant to
44 title 32 that explains an existing mental or physical condition that renders
45 the person unfit for jury service. If a prospective juror does not have a

1 physician, the prospective juror or the juror's personal representative shall
2 provide a sworn statement from a professional caregiver for the prospective
3 juror that is deemed acceptable by the court or jury commissioner and that
4 explains the mental or physical condition that renders the prospective juror
5 incapable of performing jury service. For the purposes of this paragraph:

6 (a) The statement shall be in writing and shall contain a description
7 and duration of any mobility restrictions, the specific symptoms that make
8 the prospective juror mentally or physically unfit for jury service and their
9 duration, the employment status of the prospective juror and the printed
10 name, signature, professional license number if applicable, area of specialty
11 and contact information of the authorizing physician or professional
12 caregiver.

13 (b) A form that complies with this paragraph shall be made available
14 at courthouses, the Arizona medical board web site and other appropriate
15 locations that are identified by the court or jury commissioner.

16 (c) These documents are not public records and shall not be disclosed
17 to the general public.

18 2. Jury service by the prospective juror would substantially and
19 materially affect the public interest or welfare in an adverse manner.

20 3. The prospective juror is not currently capable of understanding the
21 English language.

22 4. Jury service would cause undue or extreme physical or financial
23 hardship to the prospective juror or a person under the prospective juror's
24 care or supervision. For the purposes of this paragraph:

25 (a) A judge or jury commissioner of the court for which the person was
26 called to jury service shall determine whether jury service would cause the
27 prospective juror undue or extreme physical or financial hardship.

28 (b) A person who requests to be excused under this paragraph shall
29 take all actions necessary to obtain a ruling on the request before the date
30 on which the person is scheduled to appear for jury duty.

31 (c) Undue or extreme physical or financial hardship is limited to the
32 following circumstances in which a person:

33 (i) Would be required to abandon a person under the potential juror's
34 care or supervision due to the impossibility of obtaining an appropriate
35 substitute caregiver during the period of participation in the jury pool or
36 on the jury.

37 (ii) Would incur costs that would have a substantial adverse impact on
38 the payment of the person's necessary daily living expenses or on those for
39 whom the potential juror provides regular employment or the principal means
40 of support.

41 (iii) Would suffer physical hardship that would result in illness or
42 disease.

43 (d) Undue or extreme physical or financial hardship does not exist
44 solely based on the fact that a prospective juror will be required to be
45 absent from the prospective juror's place of employment.

(e) A person who requests to be excused under this paragraph shall provide the judge or jury commissioner with documentation that supports the request to be excused, such as federal and state income tax returns, payroll records, medical statements from physicians licensed pursuant to title 32, proof of dependency or guardianship or other similar documents. The judge or jury commissioner may excuse a person if the documentation clearly supports the request to be excused. These documents are not public records and shall not be disclosed to the general public.

5. The prospective juror is a peace officer who is certified by the Arizona peace officer standards and training board and who is employed as a peace officer by this state or any political subdivision of this state. The employer of a peace officer shall not in any way influence the peace officer to make or not to make an application to the court, pursuant to this section, to be excused from jury service.

6. THE PROSPECTIVE JUROR IS BREAST-FEEDING AN INFANT. THE PROSPECTIVE JUROR DOES NOT NEED TO PHYSICALLY APPEAR IN COURT TO REQUEST TO BE EXCUSED. THE PROSPECTIVE JUROR SHALL BE EXCUSED FOR ONE YEAR AND, AT THE END OF THE ONE YEAR PERIOD, THE PROSPECTIVE JUROR MAY BE FURTHER EXCUSED ON WRITTEN REQUEST.

~~6-~~ 7. A judge or jury commissioner of the court for which the person was called to jury service excuses the prospective juror for good cause based on a showing of undue or extreme hardship under the circumstances, including being temporarily absent from the jurisdiction or a lack of transportation.

C. Notwithstanding subsection B, a prospective juror who is at least seventy-five years of age may submit a written statement to the court requesting that the person be excused from service. The prospective juror may request to be excused temporarily or permanently. On receipt of the request, the judge or jury commissioner shall excuse the prospective juror from service.

D. A person who is excused temporarily pursuant to this section becomes eligible for qualification as a juror when the temporary excuse expires unless the person is permanently excused from jury service.

E. A person may be permanently excused only if the deciding judge or jury commissioner determines that the underlying grounds for being excused are permanent in nature or the person is permanently excused under subsection C.

Sec. 4. Title 23, chapter 2, Arizona Revised Statutes, is amended by adding article 13, to read:

ARTICLE 13. NURSING MOTHERS IN THE WORKPLACE

23-492. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "EMPLOYEE" MEANS A PERSON WHO IS CURRENTLY EMPLOYED OR SUBJECT TO RECALL AFTER A LAYOFF OR LEAVE OF ABSENCE WITH A RIGHT TO RETURN AT A POSITION WITH AN EMPLOYER. EMPLOYEE INCLUDES A FORMER EMPLOYEE WHO HAS TERMINATED SERVICE WITHIN THE PRECEDING YEAR.

1 2. "EMPLOYER" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, LABOR
2 ORGANIZATION, UNINCORPORATED ASSOCIATION, THIS STATE AND ANY AGENCY OR
3 POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER LEGAL, BUSINESS OR
4 COMMERCIAL ENTITY THAT HAS MORE THAN FIVE EMPLOYEES. EMPLOYER INCLUDES AN
5 AGENT OF AN EMPLOYER AND EXCLUDES AN EMPLOYER'S PARENT, SPOUSE, CHILD OR
6 OTHER MEMBER OF THE EMPLOYER'S IMMEDIATE FAMILY.

7 23-492.01. Nursing mothers; break time; private area

8 A. AN EMPLOYER SHALL PROVIDE A REASONABLE UNPAID BREAK TIME EACH DAY
9 TO AN EMPLOYEE WHO NEEDS TO EXPRESS BREAST MILK FOR HER INFANT CHILD. IF
10 POSSIBLE, THE BREAK TIME MUST RUN CONCURRENTLY WITH ANY BREAK TIME THAT IS
11 ALREADY PROVIDED TO THE EMPLOYEE. AN EMPLOYER IS NOT REQUIRED TO PROVIDE A
12 BREAK TIME UNDER THIS SUBSECTION IF DOING SO WOULD UNDULY DISRUPT THE
13 EMPLOYER'S OPERATIONS.

14 B. AN EMPLOYER SHALL MAKE REASONABLE EFFORTS TO PROVIDE A ROOM OR
15 OTHER LOCATION IN CLOSE PROXIMITY TO THE WORK AREA, OTHER THAN A TOILET
16 STALL, WHERE AN EMPLOYEE CAN EXPRESS BREAST MILK FOR HER INFANT CHILD IN
17 PRIVACY.